

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 215

HOUSE BILL 2489

AN ACT

AMENDING SECTIONS 15-1024, 35-457, 35-471 AND 35-473.01, ARIZONA REVISED
STATUTES; RELATING TO BONDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-1024, Arizona Revised Statutes, is amended to
3 read:

4 15-1024. Interest on bonds; sale; disposition of proceeds;
5 definition

6 A. The bonds shall bear interest, payable semiannually at the rate or
7 rates set by the accepted bid, which shall not exceed the maximum rate of
8 interest set forth in the resolution calling the election. The bonds may be
9 made payable at such place within the United States as the governing board of
10 the school district directs and shall be sold in the manner prescribed by the
11 governing board of the school district for not less than par.

12 B. The proceeds of the sale of the bonds shall be deposited in the
13 county treasury to the credit of the bond building fund of the school
14 district. Such deposits may be drawn out for the purposes authorized by this
15 article as other school monies are drawn. If a balance remains in the bond
16 building fund after the acquisition or construction of facilities is
17 completed for which the bonds were issued and upon written request of the
18 governing board:

19 1. If the school district has outstanding bonded indebtedness, the
20 balance remaining in the bond building fund shall be transferred to the debt
21 service fund of the district.

22 2. If the district has no outstanding bonded indebtedness, the balance
23 remaining in the bond building fund shall be transferred to the general fund
24 of the district.

25 C. When bonds are sold and the proceeds are not required to be used
26 for a period of ten days or more, such proceeds may be invested as provided
27 by section 15-1025, subsection B. All monies earned as interest or otherwise
28 derived from the investment of the proceeds of the sale of the bonds shall be
29 credited to the debt service fund, except that the monies shall be credited
30 to the bond building fund if the voters authorized such use of the monies in
31 a separate question at the bond election. The separate question shall inform
32 the voters that the monies will be credited to the debt service fund, and may
33 therefore reduce the amount of the secondary property tax, if the measure
34 authorizing the monies to be credited to the bond building fund does not
35 pass.

36 D. The amount of net premium associated with a bond issue may not
37 exceed the greater of:

38 1. ~~Two~~ FIVE per cent of the par value of the bond issue.

39 2. One hundred thousand dollars.

40 E. COSTS INCURRED IN ISSUING THE BONDS MAY BE PAID FROM THE NET
41 PREMIUM ASSOCIATED WITH A BOND ISSUE. Any net premium not used to pay the
42 costs of the bond issue INCURRED IN ISSUING THE BONDS shall be deposited in a
43 debt service fund and used ONLY to pay interest on the bonds.

1 F. For THE purposes of this section, "net premium" means the
2 difference between the par amount of the bond issue and the bond issue price
3 determined pursuant to United States treasury regulations.

4 Sec. 2. Section 35-457, Arizona Revised Statutes, is amended to read:

5 35-457. Sale of bonds; bids; forfeiture of deposit; definitions

6 A. Any or all of the bonds may be sold ~~by calling for bids~~ at public
7 sale or through an ~~on-line~~ ONLINE bidding process, ~~or bonds may be sold under~~
8 ~~an accelerated bidding process as follows~~ IN A MANNER PRESCRIBED BY THE
9 GOVERNING BODY OR BOARD THAT INCLUDES THE FOLLOWING:

10 ~~1. If sold under an accelerated bidding process, the bonds shall be~~
11 ~~sold at the lowest cost the governing body deems then available after having~~
12 ~~received at least three pricing quotations from recognized purchasers of~~
13 ~~bonds of the type being sold.~~

14 ~~2.~~ 1. If sold by public sale before the sale of any bonds the
15 governing body or board shall meet and enter upon its record an order
16 directing the sale of the bonds and the date and hour of the sale, and cause
17 a copy of the order to be published at least once a week for two successive
18 weeks in cities having a population of fifteen thousand or more persons
19 according to the most recent federal census, and once a week for four
20 successive weeks in all other political subdivisions before the sale in one
21 or more designated daily or weekly newspapers, together with a notice that
22 sealed proposals will be received for purchase of the bonds on the date and
23 hour named in the order.

24 ~~3.~~ 2. If sold through an ~~on-line~~ ONLINE bidding process, bids for the
25 bonds that are entered into the system may be concealed until a specified
26 time or disclosed in the ~~on-line~~ ONLINE bidding process, may be subject to
27 improvement in favor of the ~~municipality~~ POLITICAL SUBDIVISION before a
28 specified time and may be for an entire issue of bonds or specified
29 maturities according to the manner, terms and notice provisions ordered by
30 the governing body.

31 B. If the bonds are sold by public sale or through an ~~on-line~~ ONLINE
32 bidding process, all proposals shall be received on the date and hour or in
33 the manner stated in the order and the governing body or board shall award
34 the bonds to the highest and most responsible bidder. ~~All bids shall be~~
35 ~~accompanied by~~ THE SUCCESSFUL BIDDER SHALL PROVIDE a bid guarantee for not
36 less than two per cent of the total par value of the bonds WITHIN TWENTY-FOUR
37 HOURS AFTER THE DATE AND TIME THE BID IS AWARDED. The bid guarantee may be
38 in the form of a certified check or a bond issued by a surety company
39 licensed by the department of insurance to do business in this state. The
40 governing body or board may reject any and all bids. ~~and return the bid~~
41 ~~guarantees.~~ If the successful bidder does not carry out the terms of the
42 proposal to purchase the bonds, the bid guarantee shall be forfeited as
43 stipulated and liquidated damages.

1 C. Notwithstanding any other provision of this section, bonds may be
2 sold ~~to natural persons residing in this state~~ by negotiated sale on terms
3 the governing body deems to be the best then available and may bear interest
4 payable at such times as shall be determined by the governing body.

5 D. The bonds may be sold below, at or above par. If an issue of bonds
6 is sold below par, the aggregate amount of discount plus interest to be paid
7 on the bonds must not exceed the amount of interest that would be payable on
8 the bonds over the maturity schedule prescribed by the governing body at the
9 maximum rate set out in the resolution calling the election at which the
10 bonds were voted. The amount of net premium associated with a bond issue may
11 not exceed the greater of:

- 12 1. ~~Two~~ FIVE per cent of the par value of the bond issue.
- 13 2. One hundred thousand dollars.

14 E. COSTS INCURRED IN ISSUING THE BONDS MAY BE PAID FROM THE NET
15 PREMIUM ASSOCIATED WITH A BOND ISSUE. Any net premium not used to pay the
16 costs ~~of the bond issue~~ INCURRED IN ISSUING THE BONDS shall be deposited in a
17 debt service fund and used ONLY to pay interest on the bonds.

18 F. For THE purposes of this section:

- 19 1. "Net premium" means the difference between the par amount of the
20 bond issue and the bond issue price determined pursuant to United States
21 treasury regulations.
- 22 2. "~~On-line~~ ONLINE bidding process" means a procurement process in
23 which the governing body receives bids electronically over the internet in a
24 real-time, competitive bidding event.

25 Sec. 3. Section 35-471, Arizona Revised Statutes, is amended to read:

26 35-471. Refunding bonds; resolution authorizing issuance;
27 definition

28 A. The board of supervisors, on behalf of the county, the governing
29 body of a city or town or similar municipal corporation and a school district
30 governing board may issue refunding bonds to refund the bonded indebtedness
31 of such county, school district, city or town or other similar municipal
32 corporation when it is expedient to do so.

33 B. The board of supervisors or other governing body desiring to issue
34 refunding bonds shall adopt and include in its minutes a resolution stating:

- 35 1. The facts and determination of the necessity or advisability of
36 refunding such bonded indebtedness, including an estimate of the present
37 value of the debt service savings, net of all costs associated with the
38 refunding bonds, that will occur.
- 39 2. The amount of bonds to be issued, the date of such bonds and the
40 denominations.
- 41 3. The rate of interest and the maturity date.
- 42 4. The place of payment, within or without the state, of the principal
43 and interest.

1 C. ~~The amount of net premium associated with a refunding bond issue~~
2 ~~may not exceed the total of the following:~~ THE AMOUNT OF NET PREMIUM
3 ASSOCIATED WITH A REFUNDING BOND ISSUE MAY NOT EXCEED THE SUM OF THE
4 FOLLOWING:

5 1. AN AMOUNT NOT TO EXCEED FIVE PER CENT OF THE PAR VALUE OF THE
6 REFUNDING BONDS.

7 ~~2.~~ 2. THE AMOUNT EQUAL TO the difference between the amount required
8 to fund the escrow account and the par amount of the refunded bonds.

9 ~~3.~~ 3. THE AMOUNT EQUAL TO the costs of the issuance of INCURRED IN
10 ISSUING the refunding bonds. ~~that may be paid from premium, up to two per~~
11 ~~cent of the par value of the refunded bonds.~~

12 D. Any net premium not used to pay the costs of the bond issue or to
13 fund the escrow account shall be deposited in a debt service fund and used
14 ONLY to pay interest on the bonds.

15 E. For THE purposes of this section, "net premium" means the
16 difference between the par amount of the bond issue and the bond issue price
17 determined pursuant to United States treasury regulations.

18 Sec. 4. Section 35-473.01, Arizona Revised Statutes, is amended to
19 read:

20 35-473.01. Refunding bonds issued in advance of maturity of the
21 bonds to be refunded; definition

22 A. Refunding bonds, designated as such, may also be authorized, issued
23 and sold pursuant to this article for the purpose of refunding any bonds
24 theretofore issued under the authority of article 3 of this chapter or under
25 the authority of both article 3 of this chapter and title 9, chapter 5,
26 article 3 or under the authority of title 15, chapter 4, article 5 and
27 chapter 9, article 7 or by any political subdivision ~~which~~ THAT is a public,
28 corporate body under the laws of this state the property of which is exempt
29 from taxation, for the purpose of refunding any bonds, theretofore issued
30 under authority of law and payable from the proceeds of taxes, including
31 assessments, which may be levied annually at uniform rates and are secured by
32 property subject thereto in the political subdivision, in advance of the
33 maturity or call date of such bonds to be refunded. If the weighted average
34 maturity of the refunding bonds is at least seventy-five per cent of the
35 weighted average maturity of the bonds being refunded, no election on the
36 issuance of the refunding bonds shall be required. If the refunding bonds
37 are combined into a single issue with bonds authorized for nonrefunding
38 purposes, the bonds so authorized for nonrefunding purposes shall have been
39 submitted at an election as otherwise provided by law.

40 B. When refunding bonds issued pursuant to this section are sold, the
41 net proceeds shall be invested in obligations issued by or guaranteed by the
42 United States government, if these investments will mature with interest so
43 as to provide funds to pay when due, or called for redemption, the bonds to
44 be refunded together with interest thereon and redemption premiums, if any,

1 and such proceeds or obligations shall, and other funds legally available for
2 such purposes may, be deposited in the respective principal and interest
3 redemption funds and shall be held in trust for the payment of the refunded
4 bonds with interest and redemption premiums, if any, on maturity or upon an
5 available redemption date or upon an earlier voluntary surrender with the
6 consent of the issuer.

7 C. When bonds are issued in advance of maturity of the bonds being
8 refunded, the holder of the refunding bonds shall rely upon the sufficiency
9 of the funds or securities held in trust for the payment of the refunded
10 bonds. The issuance of refunding bonds shall in no way infringe upon the
11 rights of the holder of the refunded bonds to rely upon a tax levy for the
12 payment of principal and interest on the refunded bonds if the investments in
13 the redemption funds prove insufficient. The total aggregate of taxes levied
14 to pay principal and interest on the refunding bonds in the aggregate shall
15 not exceed the total aggregate principal and interest to become due on the
16 refunded bonds from the date of issuance of the refunding bonds to the final
17 date of maturity on the bonds being refunded. Subject to such limitation,
18 taxes in an amount sufficient to pay the interest on all refunding bonds
19 issued pursuant to this section, then outstanding, the installments of the
20 principal thereof becoming due and payable in the ensuing year, and the
21 annual portion of such sinking fund as may be set up for retirement thereof,
22 shall be levied, assessed and collected as other taxes of the political
23 subdivision and the proceeds therefrom kept in a special fund and used only
24 for the purposes for which collected.

25 D. Proceedings pursuant to this section shall be had by the board or
26 boards which THAT would be authorized to issue and sell the bonds to be
27 refunded if such bonds were then to be issued and sold. The refunding bonds
28 to be issued pursuant hereto may be of serial, including semiannual, or term
29 maturities payable at any time on or before the maximum maturity date
30 otherwise authorized by this article, and the provisions relating to
31 execution, validity, records, place of payment and payment, cancellation and
32 destruction upon maturity of the bonds to be refunded shall apply to such
33 refunding bonds.

34 E. Refunding bonds to be issued pursuant to this section may be
35 combined with bonds otherwise authorized, provided that they are of equal
36 priority.

37 F. The powers conferred by this section are in addition to, and not in
38 substitution of, and the limitations imposed by this section shall not affect
39 the powers conferred by any other law.

40 ~~G. The amount of net premium associated with a refunding bond issue~~
41 ~~may not exceed the total of the following:~~ THE AMOUNT OF NET PREMIUM
42 ASSOCIATED WITH A REFUNDING BOND ISSUE MAY NOT EXCEED THE SUM OF THE
43 FOLLOWING:

1 1. AN AMOUNT NOT TO EXCEED FIVE PER CENT OF THE PAR VALUE OF THE
2 REFUNDING BONDS.

3 ~~1.~~ 2. THE AMOUNT EQUAL TO the difference between the amount required
4 to fund the escrow account and the par amount of the refunded bonds.

5 ~~2.~~ 3. THE AMOUNT EQUAL TO the costs of ~~the issuance of~~ INCURRED IN
6 ISSUING the refunding bonds. ~~that may be paid from premium, up to two per~~
7 ~~cent of the par value of the refunded bonds.~~

8 H. Any net premium not used to pay the costs of the bond issue or to
9 fund the escrow account shall be deposited in a debt service fund and used
10 ONLY to pay interest on the bonds.

11 I. For the purposes of this section, "net premium" means the
12 difference between the par amount of the bond issue and the bond issue price
13 determined pursuant to United States treasury regulations.

14 Sec. 5. Emergency

15 This act is an emergency measure that is necessary to preserve the
16 public peace, health or safety and is operative immediately as provided by
17 law.

APPROVED BY THE GOVERNOR MAY 3, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 3, 2010.